DMP:KTF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

17M112

– – – – – – – – – – – – – X

UNITED STATES OF AMERICA

- against -

FADI YASSINE,

Defendant.

– – – – – – – – – – – – – X

AFFIDAVIT IN SUPPORT OF REMOVAL TO THE NORTHERN DISTRICT OF IOWA

(Fed. R. Crim. P. 5)

EASTERN DISTRICT OF NEW YORK, SS:

DANIEL TIGGES, being duly sworn, deposes and states that he is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI"), duly appointed according to law and acting as such.

On or about February 3, 2017, an arrest warrant was issued by the United States District Court for the Northern District of Iowa commanding the arrest of the defendant FADI YASSINE pursuant to a criminal complaint charging him with violations of 22 U.S.C. § 2778 and 22 C.F.R §§ 121.1, 123.1 and 127.1.

The source of your deponent's information and the grounds for his belief are as follows:[1]

1. On or about February 3, 2017, the United States District Court for the Northern District of Iowa issued an arrest warrant (the "Warrant") commanding the arrest of the defendant FADI YASSINE pursuant to a criminal complaint charging him with violations of 22 U.S.C. § 2778 and 22 C.F.R §§ 121.1, 123.1 and 127.1. A copy of the Warrant and criminal complaint are attached hereto as Exhibit A.

2. On or about February 5, 2017, HSI agents arrested the defendant FADI YASSINE at John F. Kennedy International Airport after he flew from Beirut, Lebanon via Paris, France. The defendant possessed several identification cards, including two passports, in the name of Fadi Yassine. The defendant answered to the name Fadi Yassine. Agents compared the defendant's appearance and photograph on his identification documents to a known photograph of the individual wanted by the Northern District of Iowa, and confirmed that they appeared to be the same individual. Agents also asked the defendant if he was the man depicted in the known photograph of the individual wanted by the Northern District of Iowa, and the defendant confirmed that he was the man depicted in the photograph.

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[1] Because the purpose of this Affidavit is to set forth only those facts necessary to establish probable cause for removal, I have not described all the relevant facts and circumstances of which I am aware.

WHEREFORE, your deponent respectfully requests that the defendant FADI YASSINE be removed to the United States District Court for the Northern District of Iowa so that he may be dealt with according to law.

DANIEL TIGGES
Special Agent, United States Department of Homeland Security, Homeland Security Investigations

Sworn to before me this
6th day of February, 2017

s/ Levy

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AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

GOVERNMENT EXHIBIT A

United States of America
v.

FADI YASSINE

Defendant

Case No. 17-mj-00030

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay *(name of person to be arrested)* FADI YASSINE,
who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☑ Complaint
☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Conspiracy to violate the Arms Export Control

Date: 2/3/2017

[signature]
Issuing officer's signature

City and state: Cedar Rapids, Iowa

C.J. Williams, Chief Magistrate Judge
Printed name and title

Return

This warrant was received on *(date)* ________, and the person was arrested on *(date)* ________
at *(city and state)* ________.

Date: ________

Arresting officer's signature

Printed name and title

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

United States of America
v.

FADI YASSINE

Defendant(s)

Case No. 17-mj-00030

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. During ~~On or~~ about the date(s) of 2014 and 2015 in the county of Linn and elsewhere in the Northern District of Iowa, the defendant(s) violated:

Code Section	*Offense Description*
22 U.S.C. § 2778; 22 C.F.R. §§ 121.1, 123.1, and 127.1	Conspiracy to violate the Arms Export Control

This criminal complaint is based on these facts:

See attached Affidavit.

☑ Continued on the attached sheet.

[signature]
Complainant's signature

Christpher S. Cantrell, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 2/3/2017

[signature]
Judge's signature

City and state: Cedar Rapids, Iowa

C.J. Williams, Chief Magistrate Judge
Printed name and title

AFFIDAVIT

I, Christopher S. Cantrell, Special Agent of the United States Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations ("Homeland Security"), being duly sworn, depose and state that:

Introduction

1. I am a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) and am empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 2516 of Title 18, United States Code.

2. I have been a Special Agent with the Department of Homeland Security since 2003. I have been a federal law enforcement officer of Immigration and Customs Enforcement or its predecessor, the Immigration and Naturalization Service, for over twenty years. Your affiant graduated from the Border Patrol Academy at the Federal Law Enforcement Training Center (FLETC), Glynco, Georgia, in February of 1995. In 2004, I completed the (ICE) Immigration Special Agent Cross-Training, which specifically addressed investigations of violations of the Customs Act and the International Traffic in Arms Regulations.

3. This affidavit is being submitted in support of an application for a criminal complaint and arrest warrant for Fadi YASSINE, DOB XX/XX/1974. YASSINE is a Lebanese citizen who has been issued a visa for entry into the

United States. The visa foil (document) number has the last four digits "3730".

4. This affidavit does not contain all the information known to me concerning the ongoing investigation, but only information believed to be sufficient to support a finding of probable cause to support the complaint and to issue a warrant for the arrest of Fadi YASSINE.

5. Your affiant learned the information set out below from a variety of sources, including: your affiant's personal participation in the investigation; information received from other law enforcement agencies participating in the investigation; a review of records relating to the investigation; and from information provided by one or more confidential source(s) or subject(s) of the investigation.

Summary of Facts

6. In about February 2015, a federal firearms licensee (FFL) ("the informant"), who operates a gun store in Eastern Iowa, expressed concern about three men and a woman who had purchased several guns from the informant several months earlier at the informant's store and, at the same time, purchased all of the 5.7mm ammunition the informant had in the informant's store. The informant estimated that during this transaction and another transaction on a later date, the group purchased a total 2,000 to 3,000 rounds of 5.7mm ammunition. The informant became concerned when the informant

observed some of the same individuals purchase about 20 firearms at a gun show in Eastern Iowa in late 2014 or early 2015.

7. A review of the Informant's business records showed the four individuals about whom the informant had expressed concern were: Ali Herz; Adam Ben Ali Al-Herz; Bassem Herz; and Sarah Majid Zeaiter.

8. An extensive subsequent investigation showed the four individuals named in the preceding paragraph acquired numerous guns and thousands of rounds of ammunition primarily in Iowa, with the intent to illegally export those guns and ammunition to Lebanon, without the required export license, for resale in Lebanon.

9. The investigation showed a total of four export shipments were made or attempted from Iowa to Lebanon during about 2014 and 2015, each containing firearms, ammunition and other items.

10. In March 2014, shipping container #YMLU506911-1, intended for shipment to Lebanon, was loaded at Midamar Corporation in Cedar Rapids, Iowa, by Ali and Adam Herz. The container was loaded with four (4) Bobcat skid loaders that contained at least 30 firearms (mainly handguns) and numerous rounds of ammunition for the firearms. The loaded container was transported via an interstate contract trucking carrier from Cedar Rapids to Illinois. The container was then transported in interstate commerce by a contract rail carrier from Illinois to Norfolk, Virginia, and then, via shipping carrier, to Lebanon.

11. After the container arrived in Lebanon, Ali Herz arranged to have the container taken from the port to a residence he owned, where the guns were unloaded and prepared to be sold. Adam and Bassem Herz unloaded and cleaned the firearms. Ali Herz contacted an arms dealer ("arms dealer") who was to buy the firearms. The arms dealer came to Ali Herz's house where he was given the firearms.

12. The next day the arms dealer told Ali Herz to come to the arms dealer's house to get paid for the firearms. While at the arms dealer's house, the arms dealer introduced Ali Herz to Fadi YASSINE and another person ("other person"). YASSINE took Ali Herz's phone number to give to another firearms dealer ("firearms dealer") in Lebanon for whom YASSINE worked. Because the other person did not have enough money to buy all the guns, YASSINE bought some of them from the arms dealer. Ali Herz was paid for the guns at the arms dealer's house.

13. After the firearms had been sold, the Herzs returned to the United States and began to acquire more guns and ammunition for export to Lebanon.

14. Facebook account records obtained for the Facebook account of Bassem Herz showed a string of messages appearing to be a conversation in Arabic between Bassem Herz (Facebook user number XXXX4612) and AbouHaydar Yassine (Facebook user number XXXXXXXXXXX3606) transacted between July 15, 2014, and July 28, 2014. Your affiant noticed the following words

written in the English language embedded in the text: "glock[1]"; "Baby eagle[2]"; and "glock gen 4". Your affiant also observed, based upon information posted on the Facebook page for AbouHaydar Yassine, that the subject appeared to be residing in Lebanon.

15. An HSI Special Agent who is a native speaker of the Arabic language reviewed the above string of Arabic messages and advised the conversation concerned various firearms. Furthermore, the conversation included reference to the fact that the Glock 42[3] was the newest firearm on the market. The conversation also mentioned not procuring Kimbers[4] or ammunition. In the conversation, AbouHaydar Yassine appeared to provide direction to Bassem Herz regarding which firearms to purchase.

16. In August 2014, shipping container #MSKU181881-0, destined for Lebanon, was loaded at Midamar Corporation in Cedar Rapids, Iowa, by Ali Herz, Adam Herz, and Bassem Herz with three (3) Bobcat skid loaders and packages containing about 70 firearms and numerous rounds of ammunition. The guns had been loaded in the Bobcats by Ali Herz, Adam Herz, and Bassem Herz prior to being taken to Midamar for loading in the shipping container. The loaded container was transported via an interstate contract trucking carrier from Cedar Rapids to Illinois. The container was then

1 Glock is a brand of firearm.
2 Baby Eagle refers to a specific model of pistol.
3 A Glock 42 is a specific pistol manufactured by Glock.
4 Kimber is a brand of firearm.

transported in interstate commerce by a contract rail carrier from Illinois to Norfolk, Virginia. The container departed Norfolk via a shipping carrier to Lebanon on about August 21, 2014.

17. After the second container left Midamar, Ali Herz again traveled to Lebanon to meet the container in Lebanon. Herz made arrangements to have the container brought to his home in Lebanon and unloaded there. Herz was then contacted by phone by the aforementioned firearms dealer, for whom Fadi YASSINE worked. The firearms dealer stated he was interested in doing business with Herz and stated he could pay more for the guns than the arms dealer had paid for the first shipment.

18. After the guns were unpacked and cleaned and ready for sale, Ali Herz contacted the firearms dealer. The firearms dealer came to Herz's home with Fadi YASSINE. Though the firearms dealer wanted to buy all the guns, Herz only sold him some of the guns, and sold the remaining guns to the arms dealer.

19. After this transaction, while Ali Herz was still in Lebanon, the firearms dealer took Herz to dinner and expressed his interest in buying more firearms and his willingness to advance money to Herz to buy more guns for export to Lebanon. The firearms dealer continued to remain in contact with Herz and eventually advanced Herz $30,000 in cash through Fadi YASSINE. The money was to ensure Herz would sell more guns to the firearms dealer if

Herz was going to ship more to Lebanon. The firearms dealer advised he could provide more money if necessary but Herz declined at that time.

20. Ali Herz returned to the United States in about December 2014. Herz brought $61,400 in cash from Lebanon, intending to use the money to buy more guns for export to and sale in Lebanon.

21. In about January 2015, upon learning Ali Herz had been provided money by others to buy guns, Bassem Herz and Sarah Zeaiter split off from Ali and Adam Herz.

22. In about March 2015, Bassem Herz and Sarah Zeaiter, with help from Midamar employees, loaded a shipping container destined for Lebanon at Midamar Corporation in Cedar Rapids, Iowa. The container was loaded with three (3) Bobcat skid loaders and packages containing 53 firearms, thousands of rounds of ammunition, and numerous ammunition magazines. The shipping container was transported via interstate contract trucking carrier from Cedar Rapids to Illinois; then to Norfolk, Virginia, via interstate contract rail carrier, for transport via shipping carrier to Lebanon. This container and the contents were searched at the seaport near Norfolk. The firearms, ammunition, magazines, and Bobcat skid loaders were seized.

23. Between about May 6 and May 8, 2015, a shipping container destined for Lebanon, was loaded at Midamar Corporation in Cedar Rapids, Iowa, by Ali and Adam Herz. The container was loaded with two (2) Bobcat skid loaders and other packages containing 99 firearms; thousands of rounds of

ammunition; and firearms components, parts, accessories and attachments. The shipping container was intercepted by Homeland Security Investigations before it left Iowa.

24. On or about May 12, 2015, law enforcement officers conducted a search of Ali Herz's cellular telephone pursuant to a federal search warrant issued in the Northern District of Iowa. In the contact list on Ali Herz's cellular telephone, entry 505 listed the name "Yasin Haj Fadi" and "Home" telephone number as "+96171271216."

25. On June 2, 2015, law enforcement officers obtained a search warrant for the Facebook page located at www.facebook.com/abouhaydar.yassine which is associated with AbouHaydar Yassine (XXXXXXXXXXX3606) and received more than 1,400 pages of records related to the Facebook page therefrom. A review of the records provided for this page revealed the account was associated with telephone number 96171271216. (The first three digits of this number reflect the international calling country code for Lebanon, "961").

26. A review of visa applications made for entry to the United States revealed on or about January 20, 2014, 71271216 was provided as the primary phone number for "Fadi YASSINE" on a visa application for a visitor's visa. This visa application included a photograph of the applicant. The date of birth for the applicant was given as XX/XX/1974.

27. Your affiant has reviewed the photo on the aforementioned visa application and compared it to photos, including profile photos, posted to the public

portion of www.facebook.com/abouhaydar.yassine between about February 2013 and December 2016. Based on this comparison, your affiant believes Fadi YASSINE is the individual utilizing the Facebook page located at www.facebook.com/abouhaydar.yassine.

Arms Export Control Act Summary

28. In furtherance of the security and foreign policy interests of the United States, the Arms Export Control Act, Title 22, United States Code, Section 2778 ("AECA"), authorized the President of the United States to control the export of "defense articles" from the United States . The AECA requires every person engaged in the business of exporting defense articles from the United States to obtain a license or other approval from the United States Department of State. 22 U.S.C. § 2778(b)(1)(A)(I).

29. The regulations promulgated pursuant to the AECA, known as the International Traffic in Arms Regulations ("ITAR"), define exporting to include, among other things, "[s]ending or taking a defense article out of the United States in any manner . . ." 22 C.F.R. § 120.17.

30. The ITAR define a defense article to be any item on the United States Munitions List ("USML") contained in the regulations. The USML sets forth twenty-one categories of defense articles that are subject to export licensing controls by the United States Department of State's Directorate of Defense Trade Controls ("DDTC"). 22 C.F.R. § 121.1.

31. At all times relevant hereto, the firearms and ammunition placed within each of the shipping containers referenced herein qualified as defense articles designated under Categories I and III USML. Category I of the USML designates certain firearms and related components, parts, accessories, and attachments as defense articles subject to the ITAR. Category III of the USML designates ammunition for the articles in Category I and related components, parts, accessories, attachments, and associated equipment specifically designed or modified for ammunition as defense articles subject to the ITAR.

32. No defense articles may be exported or otherwise transferred from the United States to a foreign country without a prior license or written approval from DDTC. 22 C.F.R. § 123.1(a). The ITAR also prohibits re-exports, transfers, transshipments, and diversions from foreign countries of previously-exported defense articles or services without DDTC authorization. 22 C.F.R. § 123.9(a).

33. Neither YASSINE nor any co-conspirator identified herein ever received or possessed a license from DDTC to export the defense articles.,

Conclusion

34. Between about October 2016 and December 2016 Ali Herz, Adam Herz, Bassem Herz, and Sarah Zeaiter were each sentenced in the Northern District of Iowa to terms of imprisonment after pleading guilty to violations of federal law related to the conduct outlined above. This included each person

having pled guilty to and been sentenced for violating the Arms Export Control Act, Title 22 U.S.C. § 2778 and Title 22 C.F.R. §§ 121.1, 123.1, & 127.1., by knowingly and willfully causing the export of, and attempting to export, firearms, ammunition, and other items without having first obtained the required license or authorization from the Department of State, Directorate of Defense Trade Controls.

35. Based upon the foregoing information, your affiant respectfully submits that there is probable cause to believe that Fadi YASSINE has conspired to violate the Arms Export Control Act in violation of Title 22, United States Code, Section 2778 and Title 18, United States Code, Section 371.

I declare under the penalty of perjury that the foregoing facts and circumstances are true and correct to the best of my knowledge and belief.

Dated this 3rd day of February, 2017.

CHRISTOPHER CANTRELL
Special Agent
Immigration and Customs Enforcement
Homeland Security Investigations

Sworn to before me this 3rd day of February, 2017.

C.J. WILLIAMS
Chief Magistrate Judge
United States District Court
Northern District of Iowa